

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jeffrey Mulinelli (S)	Team: Squad #8	CCRB Case #: 201411892	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 11/16/2014 8:00 PM	Location of Incident: In front of 311 Utica Avenue	Precinct: 71	18 Mo. SOL 5/16/2016	EO SOL 5/16/2016	
Date/Time CV Reported Thu, 11/20/2014 2:23 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 11/24/2014 2:23 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LT Erik Worobey	00000	932229	071 PCT
2. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM James Donnelly	14911	955890	071 PCT
2. POM Joseph Campbell	10206	955781	071 PCT
3. POM Andrew Acierno	20671	949961	071 PCT
4. POM Jay Santos	02457	949624	071 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Erik Worobey	Abuse: Lt. Erik Worobey refused to provide his name to § 87(2)(b)	
B.LT Erik Worobey	Abuse: Lt. Erik Worobey removed § 87(2)(b)'s dependent child to the 71st Precinct stationhouse.	
C. Officers	Force: Officers used physical force against § 87(2)(b)	
D.LT Erik Worobey	Force: Lt. Erik Worobey used physical force against § 87(2)(b)	
E.LT Erik Worobey	Force: Lt. Erik Worobey used physical force against § 87(2)(b)	

### Case Summary

At approximately 7:45 p.m. on November 16, 2014, PO Joseph Campbell, PO Andrew Acierno, PO James Donnelly, and PO Jay Santos stopped § 87(2)(b)'s vehicle in the vicinity of 311 Utica Avenue in Brooklyn. § 87(2)(b) had an open warrant and was arrested at the scene. Following his arrest, § 87(2)(b) remained in the front passenger's seat, and a small child was in a car seat in the rear.

When Lt. Worobey arrived at the scene, he asked § 87(2)(b) if she was the child's mother. She replied that she was not, but the child was § 87(2)(b)'s cousin. § 87(2)(b) informed Lt. Worobey that it was the father's wish that she care for the child until he could arrive at the scene. Lt. Worobey then spoke with the child's father, § 87(2)(b) via phone. Lt. Worobey allegedly refused to provide his name to § 87(2)(b) (**Allegation A**) After ending the call, Lt. Worobey instructed another officer on scene to remove the child from the car. (**Allegation B**)

Lt. Worobey informed § 87(2)(b) that the car was parked illegally. After he learned that she could not move it but had arranged for someone to pick it up, Lt. Worobey entered the car. Lt. Worobey asked for the keys, but § 87(2)(b) had previously removed them from the ignition and refused to provide them. He was inside the car for less than five minutes when he placed a handcuff on her left wrist and told the other officers to "get her."

§ 87(2)(b) was pulled from the car by her legs and handcuffed. (**Allegation C**) After she was already handcuffed and outside of the car, § 87(2)(b) attempted to pull away from the officers but was allegedly pushed chest-first against a light pole by Lt. Worobey. (**Allegation D**) § 87(2)(b) was checked by EMTs and released at the scene.

The child was later transported to § 87(2)(b) and Lt. Worobey was called when § 87(2)(b) arrived to pick him up. § 87(2)(b) spoke with Lt. Worobey briefly. When § 87(2)(b) attempted to leave, Lt. Worobey allegedly used his forearm to strike § 87(2)(b) on the left side of his body. (**Allegation E**)

### Mediation, Civil, and Criminal Histories

On March 16, 2015, a NOC inquiry was filed with the Office of the New York City Comptroller. Its results will be added to the case file upon receipt. [encl. J7-J8]

§ 87(2)(b) declined the option to mediate this complaint.

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### Civilian and Officers CCRB Histories

This is the first CCRB complaint filed by § 87(2)(b) [encl. B3]

§ 87(2)(b)

Lt. Worobey has been a member of the service for 11 years, and there have been 12 previous CCRB cases filed against him. No allegations have been substantiated against him. [encl. B1-B2]

## **Investigative Findings and Recommendations**

### **Identification of Subject Officers**

Only PO Santos and PO Campbell testified that PO Acierno physically removed the child from § 87(2)(b)'s vehicle. PO Acierno and PO Donnelly both testified that they did not know which officer performed this task, however all four officers agreed that it would have been done under the direction of their supervisor, Lt. Worobey. Lt. Worobey acknowledged that it was his decision to remove the child from the vehicle. § 87(2)(g)

§ 87(2)(b) stated that officers pulled her by her legs to remove her from the car. She described the officers as uniformed males but was unable to provide a detailed physical description of them. § 87(2)(g)

§ 87(2)(b) alleged that she was pulling away from unknown officers once in handcuffs and outside of the car. Lt. Worobey described this same situation and stated that he was holding onto § 87(2)(b) handcuffs to prevent her from walking away. § 87(2)(g)

### **Allegation A) Abuse of Authority: Lt. Erik Worobey refused to provide his name to**

§ 87(2)(b) stated that he asked Lt. Worobey to identify himself several times during their phone conversations, but Lt. Worobey refused to do so other than stating, "I'm a cop." § 87(2)(b) learned Lt. Worobey's name when he met § 87(2)(b) at § 87(2)(b) [encl. C16-C24]

Lt. Worobey testified that § 87(2)(b) did not ask him for his name, rank, or any other identifying information when they spoke on the phone. [encl. D34-D47]

§ 87(2)(g)

### **Allegation B) Abuse of Authority: Lt. Erik Worobey removed § 87(2)(b)'s dependent child from the scene.**

§ 87(2)(b) testified that she informed Lt. Worobey that she often babysat the child, and that the child's father, § 87(2)(b) had requested that she care for his child until he was able to pick him up. According to § 87(2)(b) Lt. Worobey then spoke to § 87(2)(b) via phone. After he did so, Lt. Worobey instructed the other officers on scene to remove the child from the car. Either PO Donnelly or Lt. Worobey physically removed the child from the car. [encl. C6-C10]

§ 87(2)(b) was in the officers' RMP and was unable to hear any of the conversation that preceded the child's removal from his car. He later learned that § 87(2)(b) had spoken to § 87(2)(b) via phone, and he asked her to care for the child until he arrived. [encl. C11-C15]

§ 87(2)(b) testified that he spoke to Lt. Worobey via phone and was informed that § 87(2)(b) had been arrested. After identifying § 87(2)(b) as the father, Lt. Worobey informed § 87(2)(b) that he would not leave the child with § 87(2)(b) because she was not family. § 87(2)(b) insisted that § 87(2)(b) was the baby sitter, but Lt. Worobey said that the child would have to be picked up at the precinct. § 87(2)(b) informed Lt. Worobey that he wanted to pick his son up from the scene, and Lt. Worobey asked how long it would take him to arrive. § 87(2)(b) told Lt. Worobey that he would be there in 10 minutes, and Lt. Worobey said that he would give him 15 minutes. During their conversation, § 87(2)(b) expressed concern that Lt. Worobey was going to use his son as an excuse to search and impound § 87(2)(b)'s car.

After calling a cab, § 87(2)(b) called § 87(2)(b) back less than two minutes later. § 87(2)(b) informed him that Lt. Worobey stated that § 87(2)(b) gave permission to remove his child from the scene. He then overheard Lt. Worobey say, "Yeah, I spoke to him. He said that I could take his son." § 87(2)(b) told § 87(2)(b) that Lt. Worobey was removing his son from the car seat. [encl. C16-C24]

According to Lt. Worobey, he asked to speak with the child's father after § 87(2)(b) informed him that she was not related to the child. Lt. Worobey spoke to § 87(2)(b) via phone and asked that he come to the scene to pick up his child. § 87(2)(b) was unclear about how long it would take him to get to the scene. Lt. Worobey offered to meet § 87(2)(b) halfway or drive the child to his residence, but § 87(2)(b) refused to provide his address to Lt. Worobey.

Lt. Worobey testified that it would have been acceptable to leave the child with a friend rather than a relative if the friend can be properly identified. During their phone conversation, Lt. Worobey asked § 87(2)(b) to identify § 87(2)(b). § 87(2)(b) did not know her full name, and instead called her either § 87(2)(b) or § 87(2)(b) and stated that she was his cousin's girlfriend. Lt. Worobey then knew that he would not leave the child with § 87(2)(b) because § 87(2)(b) did not know her full name, and he informed § 87(2)(b) that he would be more comfortable if he came to get his child. According to Lt. Worobey, § 87(2)(b) again dodged questions about how long it would take him to arrive, and he would not give any details concerning his location. § 87(2)(b) argued that the officers could not take § 87(2)(b)'s car because they did not have a search warrant. Lt. Worobey informed § 87(2)(b) that his primary focus was on the child, and that the child would be at the 71<sup>st</sup> Precinct stationhouse.

Lt. Worobey intended to drive § 87(2)(b)'s car to the 71<sup>st</sup> Precinct Stationhouse himself, but he was unable to obtain the keys. After refusing several requests for the keys and to stop kicking the car door, § 87(2)(b) was handcuffed and removed from the car for her safety as well as the safety of the child. Lt. Worobey then became concerned because the child was still in the car with the windows down and it was approximately 40 degrees outside. Lt. Worobey did not remember which officer physically removed the child from the car, but he acknowledged that the child was removed as per his instructions. The child was then removed to the 71<sup>st</sup> Precinct stationhouse before being transported to § 87(2)(b) for safety reasons. [encl. D34-D47]

PO Donnelly, PO Santos, and PO Campbell disagreed on when the child was removed and who removed him, but none of them were in a position to hear the full content of Lt. Worobey's phone conversation with § 87(2)(b). Additionally, each officer acknowledged that it was Lt. Worobey's decision as a supervisor to remove the child from the vehicle. [encl. D1-D36]

Patrol Guide procedure 215-01 states that to obtain care for a child under 18 years of age due to an arrest, an officer should inquire if a relative or friend can care for the dependent child. [encl. A1] Patrol Guide procedure 215-06 specifies that a child or minor requiring shelter must be brought to the officer's command if care cannot be obtained. [encl. A2-A4]

§ 87(2)(g)

[REDACTED]

**Allegation C) Force: Officers used physical force against § 87(2)(b)**

**Allegation D) Force: Lt. Erik Worobey used physical force against § 87(2)(b)**

§ 87(2)(b) stated that Lt. Worobey entered § 87(2)(b)'s car and asked for the keys which she had previously removed from the ignition. She refused both times and informed him that someone was coming to get the car. § 87(2)(b) spoke loudly but did not do anything with her body. Lt. Worobey then handcuffed her left wrist and when she moved her shoulders away from him, he told other officers to "get her." The officers opened the front passenger's door and placed their hands on § 87(2)(b) calves as they pulled her from the vehicle. She was acting "hostile" and trying to get the officers off of her by kicking her legs.

After she was out of the car, § 87(2)(b) attempted to push the officers off of her. According to § 87(2)(b) Lt. Worobey held § 87(2)(b) against the car as he finished handcuffing her. Once handcuffed, § 87(2)(b) attempted to pull away from the officers, and they eventually pushed her against a light pole chest-first to control her movement. The officers held § 87(2)(b) shoulders, back, and handcuffs. [encl. C6-C10]

Lt. Worobey described this same situation and stated that he held onto § 87(2)(b) handcuffs to prevent her from walking away. She was yelling profanities at Lt. Worobey she attempted to pull away, and § 87(2)(b) was controlling the direction and velocity of the movements. These actions prompted Lt. Worobey to call an ambulance to the scene for a possible EDP situation. [encl. D34-D47]

Partol Guide procedure 203-11 requires that officers use the minimum force necessary to take an individual into custody. [encl. A5-A6]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)  
[REDACTED]

**Allegation E) Force: Lt. Erik Worobey used physical force against § 87(2)(b)**

§ 87(2)(b) testified that he spoke with Lt. Worobey outside of his son's hospital room. § 87(2)(b) was attempting to leave the area and reenter the hospital room when Lt. Worobey allegedly pushed his forearm forcefully into § 87(2)(b)'s ribs. [encl. C16-C24]

Lt. Worobey acknowledged that he spoke to § 87(2)(b) outside of the child's hospital room. After they spoke, Lt. Worobey extended his arm to shake hands with § 87(2)(b). § 87(2)(b) did not shake hands with Lt. Worobey and instead brushed past him. Lt. Worobey admitted that his forearm made contact with § 87(2)(b) but he stated that the contact was incidental as § 87(2)(b) walked past his arm as if it had been a turnstile. Lt. Worobey did not attempt to prevent § 87(2)(b) from entering his child's hospital room. [encl. D34-D47]

§ 87(2)(g)  
[REDACTED]

Pod: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date